

1856. has been *wrongfully and illegally diverted from the funds and uses of the city*, and that he persists in illegally holding it to his own use and benefit without accounting to the corporation for it.

Bowes
v:
City Toronto

They pray that he may be decreed to *restore and repay* to the corporation the funds which he had so *diverted* and misappropriated.

The defendant—while in his answer last filed he does not admit nor distinctly deny except in some particulars, not perhaps material to the decision of this case, that everything took place as the plaintiffs have set forth—denies that he used his official influence in any manner with a view to the promotion of his private interests, or that he did in any respect deceive or mislead the council.

Judgment. He asserts that whatever was done by the council in the matters referred to, or by himself, as Mayor or member of the council, was done solely upon public grounds, and with a view to public interests; that the arrangements which the council did enter into respecting the matters referred to were clearly for the advantage of the city, and in no manner injurious to its interests, but very much the reverse:

He alleges that the corporation of the city, though they have sanctioned the use of their name in this proceeding, have been always in fact, and still are, well contented with the measures which led to the issuing of the debentures purchased by the defendant, or by the defendant and his partner, jointly with another person, and that they by no means desire to have the arrangement cancelled; if that were practicable.

He denies to a certain extent the concealment charged against him; and accounts for any degree of reserve

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